

OLC 72-0319

8 March 1972

MEMORANDUM FOR THE RECORD

SUBJECT: Hearings by Special Subcommittee on Intelligence on
H. R. 9853 to Establish a National Commission on
the Classification and Protection of Information

25X1A 1. The Special Subcommittee on Intelligence of the House Armed Services Committee, chaired by Representative Nedzi, began its hearings on H. R. 9853. The undersigned and [REDACTED] Office of Security, were in attendance. In his opening remarks, the Chairman, setting the tone of the hearings, stated that the Armed Services Committee would conduct a "low key, serious and probing inquiry." The scope of the inquiry will include a study of all aspects of personnel and physical security, including a review of statutes, regulations and other authorities for the protection and dissemination of information. He hoped that the Subcommittee's final recommendations are workable and noted that the Subcommittee must decide if the entire subject even lends itself to legislation. He stated that though H. R. 9853 was the bill being considered, he encouraged the placing of other legislative proposals before the Subcommittee.

2. The first witness was Mr. Fred Buzhardt, General Counsel, Department of Defense. Chairman Nedzi started his questioning of Mr. Buzhardt with strong comments as to why the Subcommittee had not been consulted and had not been furnished a draft of the new Executive Order revising E. O. 10501. He stated the committee was most concerned with the problem and wishes to work with the Administration. He chided Mr. Buzhardt that though the Subcommittee could not get a copy, the Washington Post managed to get one.

3. Mr. Buzhardt stated and maintained the DOD position that the problem of classification and declassification is considered one the Executive can best itself handle. He related the background of the Rehnquist Committee and the extensive coordination among the various agencies to devise a workable and effective Executive Order. He stated that the Nedzi Subcommittee was not consulted in the development of the new Order since the earlier drafts were considered too internal; and further, the role of Congress was deemed best to be one of holding hearings; surfacing problems; and

passing necessary legislation. This did not appear to convince Chairman Nedzi or other members of the Committee. When asked if there was any legislation he might wish to propose, Mr. Buzhardt responded negatively.

4. Mr. Buzhardt read his prepared statement relating the principal aspects of the new Executive Order. He concluded with DOD's position that H. R. 9853 was considered neither necessary or desirable and no action should be taken on it. The Chairman reacted strongly that DOD did not consider the bill would serve a "useful" purpose. He felt that all branches of Government share the problem and a coordinated effort would be the best approach.

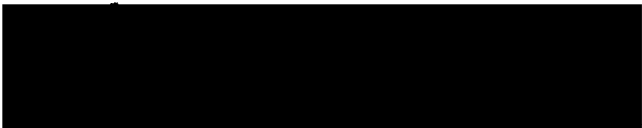
5. Chairman Nedzi asked detailed questions on the DOD implementation of the new Order which will be followed up in detail with Mr. Buzhardt at tomorrow's meeting. Chairman Nedzi requested that Mr. Buzhardt bring to the Subcommittee the DOD position to the new Executive Order and list those DOD proposals which were rejected by the White House. Mr. Buzhardt could not recall specific proposals because there had been extensive revision of previous drafts; however, he felt he would be able to provide the information later. Mr. Buzhardt strongly supported the new Order feeling that most of the problems faced will be resolved by the new changes. The Subcommittee was generally most sympathetic to the problems faced but did not appear to be convinced that the new Order is the solution.

6. The presentation by Mr. Buzhardt was geared to DOD and did not specifically include CIA or intelligence other than noting that information disclosing intelligence sources and methods was excluded from automatic declassification under the new Order. Mr. Buzhardt stressed he was not speaking for the Administration. He presumed that Justice would be the best authority for interpreting provisions of the new Order since Justice is charged with the responsibility for answering any question on its implementation. The Chairman noted that Justice would be testifying on Monday, 13 March. Mr. Buzhardt was scheduled for further testimony tomorrow.

7. Chairman Nedzi pressed Mr. Buzhardt throughout; however, his questioning was objective searching and indicated a sincere desire to seek solutions to a very complex subject. He showed impartial interest to both sides of the problem, that is, the protection of information on one hand and release on the other. If anything he may have leaned in favor of


assuring protection. Keeping the Congress informed is an integral part of the problem and is the subject of a number of other pending bills. Based on his reaction to the way the Administration handled the new Executive Order, it seems safe to presume that Chairman Nedzi strongly supports the position that the Congress must be kept informed. Throughout the meeting, the other Subcommittee members in general supported the Chairman but asked little if any questions.

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